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9  
10 **BEFORE THE**  
11 **BOARD OF REGISTERED NURSING**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

14 In the Matter of the Statement of Issues  
Against:

Case No. 2010 - 263

15 **ANTHONY KLEIMANN, aka**  
16 **ANTHONY M. KLEIMANN**  
17 **6161 Ripley Lane**  
**Paradise, CA 95969**

**STATEMENT OF ISSUES**

18 Applicant/Respondent.

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20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely  
23 in her official capacity as the Interim Executive Officer of the Board of Registered Nursing,  
24 Department of Consumer Affairs.

25 **Application History**

26 2. On or about April 29, 2009, the Board of Registered Nursing, Department of  
27 Consumer Affairs received an Application for Licensure by Examination from  
28 Anthony Kleimann, also known as Anthony M. Kleimann ("Respondent") On or about

March 10, 2009, Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on May 18, 2009.

### STATUTORY PROVISIONS

3. This Statement of Issues is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code"), unless otherwise indicated.

4. Code section 2736 provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

5. Code section 480 states, in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(3) Done any act which if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

7. Section 2762 of the Code states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

1 (b) Use any controlled substance as defined in Division 10  
2 (commencing with Section 11000) of the Health and Safety Code, or any  
3 dangerous drug or dangerous device as defined in Section 4022, or alcoholic  
4 beverages, to an extent or in a manner dangerous or injurious to himself or  
herself, any other person, or the public or the extent that such use impairs his or  
her ability to conduct with safety to the public the practice authorized by his or  
her license.

5 (c) Be convicted of a criminal offense involving the prescription,  
6 consumption, or self-administration of any of the substances described in  
7 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
record pertaining to, the substances described in subdivision (a) of this section,  
in which event the record of the conviction is conclusive evidence thereof.

### 8 **FIRST CAUSE FOR DENIAL OF APPLICATION**

#### 9 **(Criminal Conviction)**

10 8. Respondent's application is subject to denial under Code sections 2761, subdivision  
11 (f), 2736 and 480, subdivision (a)(1), in that on or about January 13, 2009, in the Superior Court  
12 of California, County of Plumas, in the case entitled, *People of the State of California v.*  
13 *Anthony M. Kleimann* (Super Ct. Plumas County, 2008, Case No. M08-00148) Respondent was  
14 convicted on his plea of no contest of violating Vehicle Code sections 23152, subdivision (b)  
15 (Drive While Having .08% Blood Alcohol Content, and More [.22%] with a Prior [03/30/1999]  
16 and 23578 [B.A.C. 20% or Higher), both misdemeanors. The circumstances of the crime are that  
17 on or about November 7, 2008, Respondent was pulled over by a Plumas Sheriff's Officer for  
18 speeding 70 m.p.h. in a 55 m.p.h. zone and weaving onto the shoulder. The officer detected an  
19 odor of alcohol and subsequently initiated a field sobriety test. Subsequent thereto, Respondent  
20 was given breath tests with results of .22% and .22%. Such crime is substantially related to the  
21 qualifications, functions and duties of a registered nurse.

### 22 **SECOND CAUSE FOR DENIAL OF APPLICATION**

#### 23 **(Any Acts by a Licentiate)**

24 9. Respondent's application is subject to denial under Code sections 2736 and 480,  
25 subdivision (a)(3), in that Respondent committed acts that if done by a licentiate of the business  
26 or profession, would be grounds for suspension or revocation of a license, pursuant to and Code  
27 sections 2761, subdivision (a), and 2762, subdivisions (b) and (c), as set forth in paragraph 8,  
28 above.

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11. On or about April 23, 1991, in the Superior Court of California, County of Butte, in the case entitled, *People of the State of California v. Anthony M. Kleimann* (Super. Ct. Butte County, 1991, Case No. SSP01827) Respondent was convicted on his plea of nolo contendere of violating Vehicle Code sections 23152, subdivision (a) (Drive Under the Influence of Alcohol and/or a Drug or Their Combined Influence), a misdemeanor.

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

2. Taking such other and further action as deemed necessary and proper.

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*